

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

TODD EVANS,

Petitioner,

vs.

MICHAEL BUDGE, *et al.*,

Respondents.

3:03-cv-00160-LRH-RAM

**ORDER**

This closed action is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner represented by counsel. The habeas petition was denied by order filed September 15, 2005. (Docket #35). Judgment was entered on September 16, 2005. (Docket #36). Petitioner appealed. (Docket #37). On October 10, 2006, the United States Court of Appeals for the Ninth Circuit filed a memorandum opinion affirming this Court's denial of the petition. (Docket #48, #49). On October 20, 2006, this Court entered the order on mandate. (Docket #50).

On June 22, 2010, David Z. Chesnoff and Richard A. Schonfeld filed a motion to withdraw as counsel of record for petitioner. (Docket #51). An attorney may not withdraw as counsel of record, except with leave of court, after notice to the affected client and opposing counsel. Local Rules of Civil Practice, LR IA 10-6. Counsel explains that in October 2006, their office notified petitioner that they would no longer be representing him in the instant case, because counsel did not see any further legal issues to pursue. Counsel did not file a motion to withdraw at that time, because counsel did not anticipate any further legal issues. (Motion, p. 1, at Docket #51). Because petitioner has recently sent a letter to the Ninth Circuit Court of Appeals in a *pro se* capacity, counsel

1 seeks to withdraw at this time. (*Id.*, at pp. 1-2). Counsel states that shortly after judgment was  
2 entered in the instant case, counsel provided petitioner with a copy of his case file and explained to  
3 petitioner that their firm would no longer represent him in this action because counsel saw no further  
4 legal issues to pursue. (Declaration of David Z. Chesnoff, ¶5 and Declaration of Richard A.  
5 Schonfeld, ¶5, at Docket #51). Counsel served petitioner with the motion to withdraw on June 22,  
6 2010. (Certificate of Service, Docket #51). Petitioner has filed no opposition to counsel's  
7 withdrawal. Good cause appearing, the motion to withdraw as counsel for petitioner is granted.

8 On July 1, 2010, petitioner filed a motion to proceed *in forma pauperis*. (Docket #53). On  
9 July 15, 2010, petitioner filed a "motion to pull file retired to federal record center." (Docket #54).  
10 Petitioner's motion to proceed *in forma pauperis* apparently was submitted in support of the motion  
11 for a free copy of the case file. Petitioner seeks, free of charge, a copy of the complete record in this  
12 action. Petitioner asserts that he is now filing a writ of coram nobis with the Ninth Circuit Court of  
13 Appeals and therefore he needs a copy of the record in this case. Petitioner is not entitled to a copy  
14 of the entire court record in this case free of charge. Moreover, petitioner's counsel has provided  
15 him with a copy of his case file. (Declaration of David Z. Chesnoff, ¶5 and Declaration of Richard  
16 A. Schonfeld, ¶5, at Docket #51). Petitioner's motion for a copy of the case file in this action is  
17 denied, as is petitioner's motion to proceed *in forma pauperis*.

18 **IT IS THEREFORE ORDERED** that the motion to withdraw as counsel of record for  
19 petitioner (Docket #51), filed by David Z. Chesnoff and Richard A. Schonfeld, is **GRANTED**. The  
20 Clerk of Court is directed to modify the docket to indicate that petitioner is no longer represented by  
21 David Z. Chesnoff and Richard A. Schonfeld.

22 **IT IS FURTHER ORDERED** that petitioner's motion to proceed *in forma pauperis*  
23 (Docket #53) is **DENIED**.

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1           **IT IS FURTHER ORDERED** that petitioner's "motion to pull file retired to federal record  
2 center" and request for a copy of the entire record in this case free of charge (Docket #54) is  
3 **DENIED.**

4           DATED this 20th day of July, 2010.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE